

SPECIAL USE PERMIT

FILE NO.	SP20-026
LOCATION OF PROPERTY	80 Great Oaks Boulevard (South Corner of San Ignacio Avenue & Great Oaks Boulevard)
ZONING DISTRICT	CIC Combined Industrial/Commercial
GENERAL PLAN DESIGNATION	CIC Combined Industrial/Commercial
PROPOSED USE	Special Use Permit to allow the demolition of an existing 71,593-square foot building, with no replacement project, and the removal of 10 non-ordinance-sized trees and one ordinance-sized tree on a 5.36-acre site.
ENVIRONMENTAL STATUS	Exempt per Exempt pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3) for Common Sense Exemption
APPLICANT/OWNER ADDRESS	Bill Million Kaiser Permanente 284 Hospital Parkway, Building K San Jose, CA 95119

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** A Special Use Permit is requested to allow the demolition of an existing 71,593-square foot building, with no replacement project on a 5.36-acres site. 10 non-ordinance-sized trees and one ordinance-sized tree around the building will be removed.
2. **Site Description and Surrounding Uses.** The subject site is currently occupied by an approximately 71,593-square foot vacant medical office building and the parking lot around the building. The site is surrounded by commercial/industrial offices.
3. **General Plan Conformance.** The subject site has a CIC Combined Industrial/Commercial land use designation on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is intended for commercial, office, or industrial developments or a compatible mix of these uses. Any future development of the site would be required to be consistent with the CIC Combined Industrial/Commercial land use designation.
4. **Zoning Conformance.** Zoning Code Section [20.80.460](#) requires that the demolition of the Building without an approved replacement Building should not have an adverse impact on

the surrounding neighborhood. *The project proposes to demolish the existing building and remove 11 trees around the building. The majority of the parking lot and site lighting will remain. The demolished area on site will be fenced off, covered from external view, and will be protected appropriately. Site maintenance will continue for the undemolished area and the site will not be allowed to fall into disrepair. Therefore, the removal of the building without a replacement building will not have an adverse impact on the surrounding neighborhood.*

5. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Special Use Permit.

- a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies; and

Analysis: No new construction is proposed with this Permit application. Any future development of the site would be required to be consistent with the CIC Combined Industrial/Commercial land use designation.

- b. The Special Use Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: No new construction is proposed with this Permit application. The project complies with Zoning Codes Section 20.80.440.B which requires a Special Use Permit for demolition of an existing building without a replacement. Any future development of the site would be required to comply with the development standards within the CIC Combined Industrial/Commercial zoning district.

- c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Land Use and Development Proposals. On-site signs describing the project were posted on the project site. A notice of the hearing was sent to surrounding neighbors and property owners within a 500 feet radius of the subject site.

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

Analysis: No new development is proposed. The demolition area will be fenced off and site maintenance will continue for the undemolished area.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities; landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: No new development is proposed.

- f. The proposed site is adequately served:
 - i. By highways or streets of sufficient width and improved as necessary to carry the kind of quantity or traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - ii. By other public and private service facilities as are required.

Analysis: No new development is proposed.

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: No new development is proposed. The site is primarily surrounded by office and industrial uses. There are no sensitive receptors adjacent to the site. The nearest residential properties are located approximately 1,100 feet away from the site. The demolition activities would take approximately three months. The project would be required to comply with all standard permit conditions for best management practices during demolition. Furthermore, as part of the project, the demolition work would utilize equipment that would minimize and reduce air pollutant emissions for the duration of approximately three months. The demolition would be temporary and would not pose a significant noise and air quality impact to the environment.

6. **Demolition Permit Findings.** With respect to the demolition of the existing detached garage, the Director of Planning, Building, and Code Enforcement has considered the following:
- a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - b. The failure to approve the permit would jeopardize public health, safety or welfare.
 - c. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
 - d. The approval of the demolition of the building would maintain the supply of existing housing stock in the City;
 - e. Rehabilitation or reuse of the existing building would not be feasible; and
 - f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.

Analysis: The existing medical office building was constructed in 1996. There is no historic significance on the structure/site. There are no plans on file for future development at the site, as of the date of this permit. The demolition without a replacement is allowed with a Special Use Permit if the demolition would not adversely impact the surroundings. As analyzed in the Zoning conformance section, the demolition without a replacement project would not have an adverse impact on the surrounding neighborhood.

7. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
- That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
 - That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;
 - That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: 10 non-ordinance-sized trees and one ordinance-sized tree will be removed because they are close to the demolition area and will be affected by the demolition. The removal of these trees would require 22 15-gallon trees to be planted on site. Because no new development is proposed, the applicant chose to pay the off-site tree replacement fee, \$17,050 (\$775 x 22).

8. **Environmental Review.** Under the provisions of Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Section 15061(b)(3) Review for Exemption:

(b) A project is exempt from CEQA if: (3) The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Analysis: The proposed project is to demolish an existing 71,593-square foot medical office building and remove 10 non-ordinance-sized trees and one ordinance-sized tree on a 5.36-acre site. 22 15-gallon trees are required as replacement trees. The applicant has paid the \$17,050 tree replacement in-lieu fees. The building was constructed in 1996. The project site does not have a history of contamination because the project site is not listed on the California State Water Resources Control Board GeoTracker website or on the Department of Toxic Substances Control Envirostor website. The site is primarily surrounded by office and industrial uses. There are no sensitive receptors adjacent to the site. The nearest residential properties are located approximately 1,100 feet away from the site.

The demolition activities would take approximately three months. The project would be required to comply with all standard permit conditions for best management practices during demolition. Furthermore, as part of the project, the demolition work would utilize equipment

that would minimize and reduce air pollutant emissions for the duration of approximately three months. The demolition would be temporary and would not pose a significant noise and air quality impact to the environment. Therefore, the project is not anticipated to create a significant environmental impact and would qualify for an exemption under Section 15061(b)(3).

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
4. **Conformance to Plans.** The demolition of the site shall conform to the approved Special Use Permit plans entitled, "Kaiser Permanente San Jose 80 Great Oaks Blvd Demolition" dated revised on December 13, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
5. **Use Authorization.** This Special Use Permit allows the demolition of the existing 71,593-square foot building on a 80 Great Oaks Boulevard.
6. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Demolition Permit has been issued.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.

8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **No Sign Approval:** Any signage shown on the approved plan set are conceptual only. No signs are approved at this time. Any additional signage shall be subject to the review and approval by the Director of Planning through a subsequent Permit Adjustment.
11. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
12. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
13. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Anti-Graffiti.** The permittee shall remove all graffiti within 48 hours of defacement, including job sites for projects under construction (demolition).
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
16. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
17. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
18. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
19. **Extended Construction (demolition) Hours.** Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. Permittee shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning,

at their discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the Permittee.

20. **Construction (Demolition) Disturbance Coordinator.** Rules and regulation pertaining to all demolition activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
21. **Demolition Equipment.** All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 Interim engines or equivalent. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs).
22. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Demolition Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Demolition Plans.* This permit file number, **SP20-026** shall be printed on all demolition plans submitted to the Building Division.
 - b. *Demolition Plan Conformance.* A demolition plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any demolition permit issuance, demolition permit plans shall conform to the approved Planning development permits and applicable conditions.
23. **Revocation, Suspension, Modification.** This Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **17th day of February, 2021**

Rosalyn Hughey, Director
Planning, Building, and Code Enforcement

Deputy